

103 KAR 26:110. Motor carrier repair and replacement parts.

RELATES TO: KRS 131.110, 139.010, 139.200, 139.260, 139.270, 139.310, 139.330, 139.480, 139.540, 139.550, 139.590, 139.720

STATUTORY AUTHORITY: KRS 131.130, 139.710

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130 and 139.710 authorize the Department of Revenue to promulgate administrative regulations for the assessment, collection, refunding, administration, and enforcement of the Kentucky tax laws. This administrative regulation establishes requirements and guidelines for the application of the sales and use tax exemption for repair and replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire as provided in KRS 139.480(32).

Section 1. Definitions. (1) "Exclusively in interstate commerce" means the conveyance of property or passengers by a motor vehicle in more than one (1) state. A motor vehicle used in the conveyance of property or passengers only within the borders of this state is not used in interstate commerce.

(2) "For hire" means a motor carrier receiving compensation for transportation of property owned by others or passengers under the requirements of the Federal Motor Carrier Safety Administration (FMCSA) 49 C.F.R. 325 to 399.

(3) "Truck Part Direct Pay Authorization" or "TP DPA" means an authorization issued by the Department of Revenue that permits a taxpayer to report Kentucky sales and use tax directly to the department on applicable repair and replacement parts.

Section 2. Application Process. (1) The applicant shall complete the Application for Truck Part Direct Pay Authorization, Revenue Form 51A160.

(2) To qualify for the TP DPA, the applicant shall be:

(a) Designated as an interstate motor carrier with the Federal Motor Carrier Safety Administration and the Kentucky Transportation Cabinet;

(b) Registered with a Kentucky sales and use tax account number or a Kentucky consumer use tax account number; and

(c) Operating one (1) or more motor vehicles exclusively in interstate commerce.

(3) The department shall issue qualifying applicants a TP DPA (Revenue Form 51A161).

Section 3. Exemption Procedures. The TP DPA holder shall:

(1) Issue a copy of the authorization to all its truck part vendors;

(2) Report and remit the sales or use tax to the Department of Revenue on purchases of repair and replacement parts used on nonqualifying motor vehicles that the purchaser's vendor would have remitted if the authorization had not been issued;

(3) Report and pay all taxable purchases in accordance with KRS 139.540, 139.550, and 139.590;

(4) Maintain records pursuant to KRS 139.720(2); and

(5) File by February 15 of each year the "Truck Part Direct Pay Authorization Purchase Report," Revenue Form 51A162, to report the total tax savings from purchases of repair and replacement parts that are exempt from sales and use tax pursuant to KRS 139.480(32).

Section 4. Vendor Requirements. (1) Vendors shall be relieved of the duty to collect and pay the sales or use tax on sales of repair and replacement parts if they:

(a) Accept a copy of the purchaser's TP DPA pursuant to KRS 139.270; and

(b) Retain the copy in the company records pursuant to KRS 139.720(2).

(2) Vendors shall:

(a) Report sales to a TP DPA holder on Line 1, Gross Receipts, of Revenue Form 51A102, "Sales and Use Tax Return"; and

(b) Take a corresponding deduction Code 190 on the return and identify the deduction as "TP DPA Sales".

Section 5. Transfer of Authorization. (1) A TP DPA shall not be transferable upon the sale, lease, or other transfer of the business.

(2) A TP DPA holder shall notify the department within ten (10) days of the effective date of the sale, lease, or other transfer of the business.

Section 6. Termination. (1) The department shall terminate a TP DPA if the holder:

(a) Fails or ceases to be an eligible taxpayer;

(b) Fails to timely file its sales and use tax returns and timely pay any tax due; or

(c) Fails to comply with any of the provisions of this administrative regulation.

(2) The department shall notify a TP DPA holder of the termination by certified mail at the last known business address.

(3) Upon receipt of the notification of termination, a TP DPA holder shall notify all truck repair and replacement part vendors within thirty (30) days of the date of termination.

(4) The effective date of the termination shall be the date of the mailing of the termination notice.

Section 7. Protests. The denial or termination of a TP DPA may be protested pursuant to KRS 131.110.

Section 8. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>. (30 Ky.R. 1382; Am. 1763; eff. 1-13-2004; 44 Ky.R. 770; eff. 1-5-2018.)